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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/761,389

01/22/2004

Michael T. Rossi

A8708

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09/21/2004

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EXAMINER

KANG, JULIANA K

ART UNIT

PAPER NUMBER

2874

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No. 10/761,389	Applicant(s) ROSSI, MICHAEL T.	
	Examiner Juliana K. Kang	Art Unit 2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on ____.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-19 and 26-30 is/are pending in the application.

 4a) Of the above claim(s) 1-19 is/are withdrawn from consideration.

5) ☐ Claim(s) ____ is/are allowed.

6) ☒ Claim(s) 26-30 is/are rejected.

7) ☐ Claim(s) ____ is/are objected to.

8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:

 1. ☐ Certified copies of the priority documents have been received.

 2. ☐ Certified copies of the priority documents have been received in Application No. ____.

 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/22/04</u> .	6) <input type="checkbox"/> Other: ____.

DETAILED ACTION

1. Applicant's election without traverse of Group II, claims 26-30 in the reply filed on June 25, 2004 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 26 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Shen (U.S. Patent 6,321,012 B1).

Shen discloses a buffer tube (16) comprising of: a plurality of individual optical fibers (26) located within the buffer tube and arranged in a plurality of fiber optic bundles (12); and a detectable binder (14) having an adjustable laylength wherein the detectable binder surrounds the fiber optic bundle. Shen et al's binder is colored coded binder thus it is detectable (see column 3 lines 56-63). Also anything having a length can be adjustable thus Shen et al's binder is inherently adjustable.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shen as applied to claim 26 above, and further in view of Thompson et al (U. S. Patent 6,498,881 B1).

As described above, Shen discloses the claimed invention including color coded binders to easily detect the optical fibers. However Shen does not specifically teach a fluorescing element or identifiable marking. Thompson et al teach using colored marks on an optical fiber cable and further teaches that luminescent colors provide improved visibility (see column 4 lines 11-13). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use luminescent colors or marks in Shen as taught by Thompson et al for better detection of the optical fibers.

6. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shen as applied to claim 26 above, and further in view of Ishikawa et al (U.S. Patent 6,243,519 B1).

As described above, Shen discloses the claimed invention except a magnetic or metal strip. Ishikawa et al teach that it is known in the art to attaché a color tape or metal tape on the binder to detect a certain location within the optical fiber cable (see

column2 lines 4-12). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Ishikawa et al in Shen in order to detect a location within the cable without stripping a buffer.

Conclusion

7. The prior art documents submitted by applicant have been considered and made of record (note the attached copy of form PTO-1449).

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Blew (U.S. Patent 5,345,526) teach an optical fiber cable with each optical fiber bundle having a binder with a predetermined color for identifying each individual optical fiber bundle. Van Dijk et al (US 2001/0048797 A1) and Parris (US 2002/0009272 A1) both teach using fluorescing element in an optical fiber cable. Lovie (U.S. Patent 5,809,194) teach using a detectable marking, such as a metallic, magnetic, fluorescent or luminescent paint on the optical fiber cable (see column 6 lines 10-40). Fitz et al (U.S. Patent 6,314,713 B1) teach a method and system for identifying a feature on a longitudinally advancing member and marking the advancing member base on the identification.

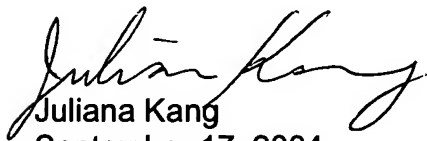
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Juliana K. Kang whose telephone number is (571) 272-

Art Unit: 2874

2348. The examiner can normally be reached on Mon. & Fri. 10:00-6:00 and Tue. & Thur. 10:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rod Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Juliana Kang
September 17, 2004